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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/017,040	12/06/2001	John C. Hiatt JR.	113609-002	6549
24573 7590 06/22/2007 BELL, BOYD & LLOYD, LLP P.O. Box 1135 CHICAGO, IL 60690			EXAMINER GREIMEL, JOCELYN	
			ART UNIT 3693	PAPER NUMBER
			MAIL DATE 06/22/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/017,040	HIATT ET AL.	
	Examiner	Art Unit	
	Jocelyn Greimel	3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This communication is in response to Applicant's Response to Election/Restriction filed 05 June 2007.

Status of Claims

Claims 1-28 are currently pending. Claim 29 has been withdrawn.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

1. **Claims 1-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hollerman et al (US Patent Publication US2003/0023536 A1, hereinafter**

Hollerman) and further in view of Forward-Start Options (Forward). In reference to claims 1 and 18, Hollerman discloses a method and system for displaying financial instruments adapted to be listed and traded on a trading facility on which a plurality of standard options are listed and traded, comprising

- a. selecting an underlying asset having a variable value (0002-0017);
- b. listing a plurality of standard options to either buy or sell a stake in the underlying asset at a fixed strike price (0018-0019).

2. Hollerman also discloses a method and system for displaying financial instruments adapted to be listed and traded on a trading facility on which a plurality of standard options are listed and traded, wherein:

- c. The underlying asset is a tangible asset;
- d. The tangible asset is a security;
- e. The tangible asset is a commodity;
- f. The tangible asset is a bond or note;
- g. The tangible asset is an exchange traded fund;
- h. The underlying asset is an intangible asset;
- i. The intangible asset is a market index;
- j. The intangible asset is a derivative;
- k. The delayed start option comprises a call option;
- l. The delayed start option comprises a put option;
- m. The strike price setting date is three months prior to the expiration date;

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- n. The strike price setting date is 30 days prior to the expiration date;
- o. The strike price setting date is two months prior to the expiration date (0002-0018).

Hollerman does not disclose the system, which displays the financial instruments adapted to be listed and traded on a trading facility to include:

- p. creating a delayed start option to either buy or sell a stake in the underlying asset at a strike price to be determined on a predefined strike setting date in the future ; and
- q. converting said delayed start option to a standard option selected from said plurality of standard options having a fixed strike price at or near the value of the underlying asset on the strike price setting date, thereby creating a standard at-the-money option as of the strike price setting date.

However, in reference to claims 1 and 18, Forward discloses a method comprising:

- r. creating a delayed start option to either buy or sell a stake in the underlying asset at a strike price to be determined on a predefined strike setting date in the future (page 1-2); and
- s. converting said delayed start option to a standard option selected from said plurality of standard options having a fixed strike price at or near the value of the underlying asset on the strike price setting date, thereby creating a standard at-the-money option as of the strike price setting date (page 1-2).

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It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to have modified the system of Hollerman, which displays financial instruments to be listed and traded to include the standard at-the-money option created in Forward because Hollerman discloses that the system could be utilized to sell "an alternative asset such as any other type of security, commodity or derivative" (Hollerman: 0003).

3. In reference to claims 15-17, Forward discloses:

t. The standard option to which the delayed start option is converted is a standard option from among said plurality of standard options having a fixed strike price nearest the value of the underlying asset on the strike price setting date;

u. the standard option to which the delayed start option is converted is the standard option from among said plurality of standard options having a fixed strike price nearest to and less than the value of the underlying asset;

v. the standard option to which the delayed start option is converted is a standard option from among said plurality of standard options having a fixed strike price nearest to and greater than the value of the underlying asset on the strike price setting date.

It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to have modified the system of Hollerman, which displays financial instruments to be listed and traded to include the standard at-the-money option created

in Forward and the conversion mechanism detailed above because Hollerman discloses that the system could be utilized to sell "an alternative asset such as any other type of security, commodity or derivative" (Hollerman: 0003).

4. In reference to claims 19-22, Forward discloses a forward-start option method which converts to a standard option contract and details the conversion process (page 1-2). In reference to claims 23-28, Forward discloses a forward-start option method in which there is an allocation process (page 1-2). It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to have modified the system of Hollerman, which displays financial instruments to be listed and traded to include the standard at-the-money option created in Forward and the conversion and allocation mechanisms detailed above because Hollerman discloses that the system could be utilized to sell "an alternative asset such as any other type of security, commodity or derivative" (Hollerman: 0003).

Conclusion

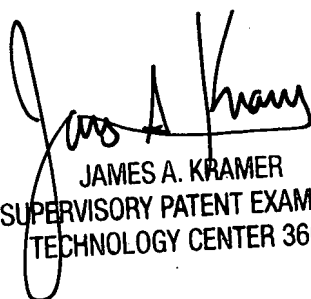
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jocelyn Greimel whose telephone number is (571) 272-3734. The examiner can normally be reached on Monday - Friday 8:30 AM - 4:30 PM EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's

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supervisor, James Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jocelyn Greimel
Examiner, Art Unit 3693
June 15, 2007

 6/18/07
JAMES A. KRAMER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600